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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/595,830	03/02/2007	Jochen Peters	N0484.70064US00	7406

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EXAMINER	
OPSASNICK, MICHAEL N	
ART UNIT	PAPER NUMBER
2626	
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/595,830	PETERS ET AL.	
	Examiner	Art Unit	
	MICHAEL N. OPSASNICK	2626	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *02 March 2007*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-19* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-19* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *15 May 2006* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☒ All b)☐ Some * c)☐ None of:

1.☒ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Double Patenting

1. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

2. Claims 4,5,8,9,11,12,14,15,17,18 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-20 of copending Application No. 10/595831. Although the conflicting claims are not identical, they are not patentably distinct from each other because although the claims of 10/595831 contain extra processing steps, these steps are not necessary for the functionality of claims 4,5,8,9,11,12,14,15,17,18 to be realized.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

Claim Rejections - 35 USC § 101

3. 35 U.S.C. 101 reads as follows:

> Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

4. Claims 1,2,4,5,14-19 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

Claims 1,2,4,5 are directed to segmentation of text information, which does not fall into one of the enumerated four categories of patent eligible subject matter recited in 35 U.S.C. 101 (process, machine, manufacture, or composition of matter).

Claims 1,2,4,5 are not directed toward:

1) a process/method (nothing is processed/transformed, text data is being manipulated/resegmented; a statutory "process" under 35 USC 101 must (a) be tied to another statutory category (such as a manufacture or a machine), or (b) transform underlying subject matter (such as an article or material) to a different state or thing. Claims 1,2,4,5 neither transform underlying subject matter nor positively recite structure associated with another statutory category, and therefore do not define a statutory process.

2) a machine there are no claim elements towards an appropriate apparatus, e.g. the elements of a device that would perform the claim steps.

3) a manufacture (no claim elements pertain to an output product nor a

4) a composition of matter .

Furthermore, the claims do not perform an underlying transformation of the underlying state to a different state or thing. If the acts of a claimed process manipulate only numbers, abstract concepts or ideas, or signals representing any of the foregoing, the acts are not being applied to appropriate subject matter (Benson, 409 U.S. at 71-72, 175, USPQ at 676). Furthermore, claims define nonstatutory processes if they simply manipulate abstract ideas (Warmerdam, 33 F.3d at 1360,31 USPQ2d at 1759).

Claims 14-19 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. Claims 14-19 are non-statutory under the most recent interpretation of the Interim Guidelines regarding 35 U.S.C.101 because although this claim is toward a computer program product, as claimed (and disclosed in the specification),

"The broadest reasonable interpretation of a claim drawn to a computer readable medium (also called machine readable medium and other such variations) typically covers forms of non-transitory tangible media and transitory propagating signals per se in view of the ordinary and customary meaning of computer readable media, particularly when the specification is silent. See MPEP 2111.01. When the broadest reasonable interpretation of a claim covers a signal per se, the claim must be rejected under 35 U.S.C. § 101 as covering non-statutory subject matter.

Hence, claims 14-19 are drawn to non-statutory subject matter. Furthermore, claims 14-19 do not define any structural and functional interrelationship between the computer program and other claimed elements of a computer which permit the computer program's functionality to be realized (Warmerdam, 33 F.3d at 1361,31 USPQ2d at 1760; Lowry, 32 F.3d at 1583-84, 32 USPQ2d at 1035).

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

6. Claims 1-19 are rejected under 35 U.S.C. 102(e) as being anticipated by Kanevsky et al (6529902).

As per claim 1,6, Kanevsky et al (6529902) teaches a method of modifying a text (400) using a set of statistical models (406, 408) being generated on the basis of training data and/or by manual coding (as segmenting text – fig. 1a; based on topic – fig 1b, derived from training data – fig. 1a, subblock 00), the method of modifying the text comprising the steps of: segmenting the text into a plurality of sections (402, 404), assigning one of the set of statistical models (406, 408) to each section (as performing left to right and right to left LM's – Fig. 1a, subblock 04,05),, performing a text modification procedure for each section with respect to the statistical model being assigned to the section (as reprocessing according to the user's choosing/review – col. 10 lines 18-30).

As per claim 2, Kanevsky et al (6529902) teaches the method according to claim 1, wherein the text modification procedure comprises a text formatting process for which the assigned statistical model (406, 408) provides formatting rules (412, 414, 418, 420) being specific for a topic of the section (as topic assignments - fig. 1b, subblock 101; using a set of topic probabilities – fig. 2; and performing a testing loop – fig. 2, subblock 205).

As per claims 3,6,7, Kanevsky et al (6529902) teaches the method according to claim 1, wherein the text (400) has been generated by a first speech recognition pass, the modification procedure comprising a second speech recognition pass making use of a language model (410,

416) and/or speech recognition parameters of the statistical model (406, 408) being assigned to each section (as using ASR – col. 9 lines 35-43; and use of language models in a forward-backward process -- fig. 1a)

As per claim 4, Kanevsky et al (6529902) teaches the method according to claim 1, wherein each statistical model (406, 408) comprises a topic specific language model (410, 416) and topic specific formatting rules (412, 414, 418, 420), the language model having a topic specific vocabulary (as topic assignments - fig. 1b, subblock 101; using a set of topic probabilities – fig. 2; and performing a testing loop – fig. 2, subblock 205; with language models – abstract, fig. 1a).

As per claim 5, Kanevsky et al (6529902) teaches The method according to claim 1, wherein the section assigned to a statistical model (406, 408) is analyzed in order to adapt the statistical model to the analyzed section (as redefining sections/boundaries that cause a shift/position change – col. 11 line 40 – col. 12 line 15).

Claims 8-13 are system/interface claims that perform the method steps of claims 1-7; as such, claims 8-13 are similar in scope and content to claims 1-7 above and are therefore rejected under similar rationale as presented against claims 1-7 above.

Claims 14-19 are computer product claims that perform the method steps of claim 1-7; as such, claims 14-19 are similar in scope and content to claims 1-7 above and are therefore rejected under similar rationale as presented against claims 1-7 above.

Conclusion

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Please see related art listed on the PTO-892 form.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Opsasnick, telephone number (571)272-7623, who is available Monday-Friday, 9am-5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Richemond Dorvil, can be reached at (571)272-7602. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Michael N. Opsasnick/
Primary Examiner, Art Unit 2626
9/2/2010